

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0671.02 Ed DeCecco x4216

HOUSE BILL 12-1321

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A BILL FOR AN ACT

101 CONCERNING THE STATE PERSONNEL SYSTEM, AND, IN CONNECTION  
102 THEREWITH, ENACTING THE "MODERNIZATION OF THE STATE  
103 PERSONNEL SYSTEM ACT".

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The state personnel system (system) is established in the state constitution. The following changes are contingent upon the voters approving an amendment to the constitutional provisions related to the system in 2012:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

- ! **Merit principles.** The bill makes changes to reflect that appointments and promotions will be based on a comparative analysis of candidates based on objective criteria instead of competitive tests of competence. **Section 9** of the bill requires the state personnel director (director) to develop evaluation and examination procedures, describes a comparative analysis and its acceptable forms, and makes conforming amendments related to the change.
- ! **Exemptions. Section 12** of the bill requires the director to establish procedures to approve the exemption of an employee from the state personnel system pursuant to the newly created constitutional exemptions.
- ! **Rule of 6. Section 9** of the bill makes changes to reflect that the number of persons eligible for appointment within the system is increased from the 3 highest persons on the eligible list to the 6 highest.
- ! **State personnel board. Section 5** makes conforming amendments to reflect the constitutional changes related to the state personnel board and eliminates language that duplicates constitutional language.
- ! **Temporary employment. Section 10** of the bill reflects the new constitutional limit on the length of temporary employment and establishes a 4-month waiting period between temporary appointments for the same position.

For persons within the state personnel system, the bill replaces the performance awards with merit pay. **Section 6** of the bill establishes the following features of the merit pay system:

- ! The purpose of the merit pay system is to provide salary increases for employees in the state personnel system based on performance evaluations and salary positions within the appropriate salary range;
- ! The initial system must include quartiles for the salary range distribution and 3 performance categories, but the director may change the number of distribution zones or performance categories based on a biennial review;
- ! The director shall establish one or more priority groups of employees that have priority to receive merit pay based on available moneys;
- ! An institution of higher education is permitted to enact its own merit pay system;
- ! Merit pay is subject to available appropriations;
- ! The general assembly is required to appropriate any moneys for merit pay in the personal services line item;
- ! The director must include information about merit pay in the annual compensation report and recommendations; and

! The state employee reserve fund is created with separate accounts for each principal department. If a department does not expend all of the moneys in its operating or personal services line item appropriation, the treasurer is required to transfer an amount equal to the unused appropriation to the department's account. Moneys in a department's account are continuously appropriated to the department to be used for merit pay, but the director of the office of state planning and budgeting must approve such use.

In addition, **section 8** of the bill requires each department to include the costs of merit pay as part of the costs of personal services in the annual departmental budget requests. Conforming amendments related to merit pay are included in **sections 4, 7, and 13** of the bill.

**Section 11** of the bill makes the following changes related to persons in the system who are separated from state service due to lack of work, lack of funds, or reorganization:

! Bumping rights, which allow a separated employee to take the job from a person with less seniority, are limited to those persons who, as of January 1, 2013, are within 5 years of being eligible for full retirement;

! The director is required to establish by rule procedures for the separation and demotion of certified employees who do not have bumping rights, which procedures give consideration to performance evaluations and seniority;

! All departments are required to consider placing an employee who would otherwise be separated into a funded, vacant position for which the employee is qualified; and

! The director is required to create a layoff plan that may be used by a department to provide postemployment compensation or other benefits to a separated employee, which may include a hiring preference, health benefits, educational training, and severance pay.

**Section 3** of the bill establishes an exception for the postemployment compensation authorized by the layoff plan established by the director from the current prohibition on such compensation to any government-supported official or employee.

The changes related to merit pay, bumping rights, and severance awards are not contingent on the voters approving an amendment to the state constitution.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act shall be known and may be

1 cited as the "Modernization of the State Personnel System Act".

2 **SECTION 2. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) It is essential for the state to be able to recruit, retain, and  
5 reward a qualified state work force in order to compete for and employ  
6 top talent and provide the highest quality of service to the people of  
7 Colorado;

8 (b) In order to attract a qualified state work force, it is necessary  
9 to modernize and create flexibility in a rigid personnel system that has not  
10 seen significant change in over forty years; and

11 (c) In an effort to reward our veterans for their commitment to this  
12 country and to our state, Colorado veterans should be given preference  
13 within the state personnel system after their military service.

14 (2) The general assembly further finds and declares that, within  
15 the state personnel system:

16 (a) Since the establishment of a pay-for-performance system a  
17 decade ago, the state has failed to adequately compensate state employees  
18 for the work they perform;

19 (b) Today, more than half of all state employees are at the bottom  
20 of their salary range, and there is an urgent need to restructure the pay  
21 system;

22 (c) The goal of the state's pay system should be to move deserving  
23 employees through a salary range that is comparable to an equivalent  
24 private-sector pay range, with the cumulative result of individual  
25 employee movement being a work force that is concentrated at the  
26 mid-point of employee salary ranges with smaller groups of employees  
27 at the bottom and top of the ranges;

1 (d) In times of fiscal strain, the state of Colorado should use  
2 performance, position in salary range, and longevity of service to  
3 determine which groups of employees are most in need of salary range  
4 movement;

5 (e) Through prioritization, the state can advance employees most  
6 acutely in need of salary range movement even when resources are  
7 scarce; and

8 (f) The state can provide an incentive for employees to achieve  
9 efficiencies and savings from appropriated amounts, which currently  
10 revert back to their original fund, by transferring that amount to a reserve  
11 fund, which can be used to help supplement the funds available to provide  
12 merit pay for the employees.

13 (3) Therefore, it is in the best interests of the state to make the  
14 significant changes to the state personnel system included in this act and  
15 House Concurrent Resolution 12-\_\_\_\_ in order to better recruit, retain,  
16 and reward qualified state employees and to bring our state work force  
17 into the twenty-first century.

18 **SECTION 3.** In Colorado Revised Statutes, 24-19-108, **amend**  
19 (1) (b) and (1) (c); and **add** (1) (d) as follows:

20 **24-19-108. Exceptions.** (1) The provisions of this article shall not  
21 apply to the following:

22 (b) Any tenured or tenure track faculty member whose primary job  
23 assignment is teaching, research, or both teaching and research and who  
24 is employed at a state institution of higher education or any specialty track  
25 faculty member whose primary job assignment is clinical care and who  
26 is employed at a state institution of higher education; ~~or~~

27 (c) Any employee employed by a unit of local government whose

1 governing body is directly elected by the electors of such local  
2 government; OR

3 (d) ANY CERTIFIED EMPLOYEE WHO IS SEPARATED FROM STATE  
4 SERVICE DUE TO LACK OF WORK, LACK OF FUNDS, OR REORGANIZATION  
5 AND WHO RECEIVES POSTEMPLOYMENT COMPENSATION OR OTHER  
6 BENEFITS AUTHORIZED BY A LAYOFF PLAN ESTABLISHED BY THE STATE  
7 PERSONNEL DIRECTOR PURSUANT TO SECTION 24-50-124 (1) (d) (I).

8 **SECTION 4.** In Colorado Revised Statutes, 24-38-103, **amend**  
9 (1.5) as follows:

10 **24-38-103. Agency authority and incentives for budget**  
11 **savings.** (1.5) Beginning with the 2004-05 fiscal year, an agency that  
12 achieves cost savings, as an alternative to the transfer authorized pursuant  
13 to subsection (1) of this section, may transfer fifty percent of the amount  
14 of the cost savings from one item of appropriation made to the agency in  
15 the general appropriation act or any supplemental appropriation act to the  
16 item for personal services in the appropriation made to the same agency  
17 for the purpose of paying performance-based ~~bonuses~~ AWARDS to  
18 employees of the agency. The ~~bonus~~ AWARD shall be awarded in the fiscal  
19 year in which the cost savings are achieved and shall be made consistent  
20 with the performance REVIEW DONE IN ACCORDANCE WITH THE MERIT PAY  
21 system identified in section 24-50-104 (1) (c.7). Prior to the end of the  
22 state fiscal year in which a transfer is made pursuant to this subsection  
23 (1.5), an agency shall submit written notice to the joint budget committee,  
24 the office of state planning and budgeting, and the state controller of the  
25 amount of the cost savings achieved by the agency during the state fiscal  
26 year.

27 **SECTION 5.** In Colorado Revised Statutes, 24-50-103, **amend**

1 (1), (3) (a), and (5) as follows:

2 **24-50-103. State personnel board.** (1) THE STATE PERSONNEL  
3 BOARD, REFERRED TO IN THIS ARTICLE AS THE "BOARD", IS CREATED  
4 pursuant to the provisions of section 14 of article XII of the state  
5 constitution. ~~there is hereby created the state personnel board, referred to~~  
6 ~~in this article as the "board", which shall consist~~ THE BOARD CONSISTS of  
7 five members to be selected in the manner provided in THE STATE  
8 CONSTITUTION AND this section. ~~Three members of the board shall be~~  
9 ~~appointed by the governor, with the consent of the senate, and two~~  
10 ~~members of the board shall be elected by persons certified to classes and~~  
11 ~~positions in the state personnel system in the manner prescribed by~~  
12 ~~subsection (3) of this section. Each member of the board shall be a~~  
13 ~~qualified elector of the state but shall not be otherwise an officer or~~  
14 ~~employee of the state or of any state employee organization. The terms of~~  
15 ~~office of members of the board shall be five years; except that of the~~  
16 ~~members appointed by the governor to take office on July 1, 1971, one~~  
17 ~~shall be appointed for a one-year term, one shall be appointed for a~~  
18 ~~two-year term, and one shall be appointed for a three-year term, and of~~  
19 ~~the members elected to take office on July 1, 1971, one shall be elected~~  
20 ~~for a four-year term, and one shall be elected for a five-year term.~~  
21 ~~Members of the board may succeed themselves in office.~~

22 (3) (a) In the year ~~1975~~ 2015 and every ~~fifth~~ THIRD year thereafter  
23 and in the year ~~1976~~ 2016 and every ~~fifth~~ THIRD year thereafter, an  
24 election shall be held for a member of the board in the manner provided  
25 in this subsection (3).

26 (5) ~~Any~~ A member of the board may be removed ~~by the governor~~  
27 ~~for willful misconduct in office, for willful failure or inability to perform~~

1 ~~his duties, including, but not limited to, failure to attend three consecutive~~  
2 ~~regular board meetings, for final conviction of a felony or of any other~~  
3 ~~offense involving moral turpitude, or by reason of permanent disability~~  
4 ~~interfering with the performance of his duties. Removal shall be subject~~  
5 ~~to judicial review~~ IN ACCORDANCE WITH SECTION 14 (2) OF ARTICLE XII  
6 OF THE STATE CONSTITUTION.

7 **SECTION 6.** In Colorado Revised Statutes, 24-50-104, **amend**  
8 (1) (a) (I), (1) (a) (II), (1) (c) (I), (1) (c) (II) introductory portion, (1) (c)  
9 (II) (D), (1) (c) (II) (F), (1) (c) (IV), (1) (c.5) (V), (1) (c.7), (4) (a), (4) (b)  
10 (I), and (4) (c); **repeal** (1) (c) (II) (E) and (1) (c) (II) (G); and **add** (1) (c)  
11 (I.1), (1) (c) (I.2), (1) (c) (I.3), (1) (c) (I.5), (1) (c) (I.7), (1) (c) (I.9), and  
12 (1) (j) as follows:

13 **24-50-104. Job evaluation and compensation - state employee**  
14 **reserve fund - created - definitions.** (1) **Total compensation**  
15 **philosophy.** (a) (I) It is the policy of the state to provide prevailing total  
16 compensation to officers and employees in the state personnel system to  
17 ensure the recruitment, motivation, and retention of a qualified and  
18 competent work force. For purposes of this section, "total compensation"  
19 includes, but is not limited to, salary, group benefit plans, retirement  
20 benefits, ~~performance awards~~ MERIT PAY, incentives, premium pay  
21 practices, and leave. For purposes of this section, "group benefit plans"  
22 means group benefit coverages as described in section 24-50-603 (9).

23 (II) The state personnel director shall establish technically and  
24 professionally sound survey methodologies to assess prevailing total  
25 compensation practices, levels, and costs. Except as provided in  
26 subparagraph (III) of this paragraph (a), for purposes of this paragraph  
27 (a), to determine and maintain salaries, state contributions for group



1 benefit plans, and ~~performance awards~~ MERIT PAY that are comparable to  
2 public and private employment, the state personnel director shall annually  
3 review the results of appropriate surveys by public or private  
4 organizations, including surveys by the state personnel director. Any  
5 surveys provided on a confidential basis shall not be revealed except to  
6 the state auditor's office and the private firm conducting the audit required  
7 in paragraph (b) of subsection (4) of this section. The state personnel  
8 director shall adopt appropriate procedures to determine and maintain  
9 other elements of total compensation, including the payment of incentive  
10 awards to employees in the state personnel system. The state personnel  
11 director's review and determination of total compensation practices shall  
12 not be subject to appeal except as otherwise authorized by law or state  
13 personnel director procedures.

14 (c) (I) ~~Based on a system of performance management and~~  
15 ~~evaluation,~~ The state personnel director shall ~~adopt procedures for~~  
16 ESTABLISH A MERIT PAY SYSTEM IN ORDER TO PROVIDE periodic salary  
17 increases for employees in the state personnel system. ~~based on~~  
18 ~~performance~~ THE PURPOSE OF THE MERIT PAY SYSTEM IS TO PROVIDE  
19 SALARY INCREASES FOR EMPLOYEES BASED ON PERFORMANCE  
20 EVALUATIONS AND SALARY PLACEMENT WITHIN THE APPROPRIATE SALARY  
21 RANGE. THE STATE PERSONNEL DIRECTOR SHALL DEVELOP THE MERIT PAY  
22 SYSTEM SO THAT A MERIT PAY INCREASE IS BASED ON THE RELATIONSHIP  
23 OF PERFORMANCE RATING DISTRIBUTION AND SALARY RANGE  
24 DISTRIBUTION. THE MERIT PAY SYSTEM MUST INCLUDE THE FOLLOWING  
25 CHARACTERISTICS:

26 (A) SALARY RANGE IS DIVIDED INTO QUARTILES, EXCEPT AS SET  
27 FORTH IN SUBPARAGRAPH (I.1) OF THIS PARAGRAPH (c);

1 (B) THE LOWEST QUARTILE OR DISTRIBUTION ZONE IN RELATION  
2 TO THE MIDPOINT HAS THE HIGHEST RATE OF MERIT PAY, AND THE RATE  
3 FOR EACH SUCCESSIVE QUARTILE OR DISTRIBUTION ZONE IS LESS THAN THE  
4 PRECEDING QUARTILE OR DISTRIBUTION ZONE, EXCEPT AS PROVIDED IN  
5 SUB-SUBPARAGRAPH (E) OF THIS SUBPARAGRAPH (I);

6 (C) PERFORMANCE EVALUATIONS ARE DIVIDED INTO THREE  
7 PERFORMANCE CATEGORIES, EXCEPT AS SET FORTH IN SUBPARAGRAPH (I.1)  
8 OF THIS PARAGRAPH (c);

9 (D) THE HIGHEST PERFORMANCE CATEGORY HAS THE HIGHEST  
10 RATE OF MERIT PAY, AND THE RATE FOR EACH LOWER PERFORMANCE  
11 CATEGORY IS LESS THAN THE PRECEDING CATEGORY, EXCEPT AS PROVIDED  
12 IN SUB-SUBPARAGRAPH (E) OF THIS SUBPARAGRAPH (I); AND

13 (E) EMPLOYEES WHO RECEIVE AN UNSATISFACTORY PERFORMANCE  
14 EVALUATION ARE NOT ELIGIBLE FOR MERIT PAY.

15 (I.1) ON OR AFTER SEPTEMBER 1, 2015, THE STATE PERSONNEL  
16 DIRECTOR SHALL REVIEW THE EFFECTIVENESS OF THE USE OF QUARTILES  
17 FOR SALARY RANGE AND THREE PERFORMANCE CATEGORIES IN THE MERIT  
18 PAY SYSTEM. BASED ON THE REVIEW, THE STATE PERSONNEL DIRECTOR  
19 MAY ADJUST THE NUMBER OF DISTRIBUTION ZONES AND PERFORMANCE  
20 CATEGORIES TO BE USED IN THE SYSTEM. THEREAFTER, THE STATE  
21 PERSONNEL DIRECTOR SHALL CONDUCT A BIENNIAL REVIEW OF THE  
22 DISTRIBUTION ZONES AND PERFORMANCE CATEGORIES AND MAY ADJUST  
23 THE NUMBER OF DISTRIBUTION ZONES OR PERFORMANCE CATEGORIES  
24 BASED ON THE REVIEW. THE MINIMUM NUMBER OF DISTRIBUTION ZONES  
25 THE STATE PERSONNEL DIRECTOR MAY ESTABLISH IS THREE, AND THE  
26 MAXIMUM NUMBER IS SIX.

27 (I.2) IF A STATE DEPARTMENT OR INSTITUTION OF HIGHER

1 EDUCATION HAS A PERFORMANCE REVIEW SYSTEM THAT HAS A DIFFERENT  
2 NUMBER OF PERFORMANCE CATEGORIES THAN THE NUMBER USED BY THE  
3 STATE PERSONNEL DIRECTOR IN THE MERIT PAY SYSTEM, THE STATE  
4 PERSONNEL DIRECTOR SHALL ESTABLISH A METHOD FOR CONVERTING THE  
5 DEPARTMENTAL OR INSTITUTIONAL CATEGORIES INTO THE CATEGORIES  
6 USED IN THE MERIT PAY SYSTEM.

7 (I.3) BASED ON PROFESSIONALLY SOUND SURVEY  
8 METHODOLOGIES, THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH  
9 ANNUALLY ONE OR MORE PRIORITY GROUPS OF EMPLOYEES THAT HAVE  
10 PRIORITY TO RECEIVE MERIT PAY BASED ON AVAILABLE MONEYS. THE  
11 PRIORITY GROUPS MUST BE BASED ON LENGTH OF SERVICE, RELATION TO  
12 THE SALARY RANGE MIDPOINT, PERFORMANCE, RECRUITMENT, RETENTION  
13 NEEDS, AND OTHER FACTORS ESTABLISHED BY THE DIRECTOR. THE  
14 AMOUNT OF MERIT PAY THAT AN EMPLOYEE IN THE STATE PERSONNEL  
15 SYSTEM MAY RECEIVE DEPENDS FIRST ON THE EMPLOYEE'S PRIORITY  
16 GROUP AND THEN ON THE AMOUNT OF MERIT PAY, IF ANY, ASSOCIATED  
17 WITH THE EMPLOYEE'S PERFORMANCE CATEGORY AND PAY RANGE.

18 (I.5) (A) EXCEPT AS SET FORTH IN SUB-SUBPARAGRAPH (B) OF THIS  
19 SUBPARAGRAPH (I.5), THE MERIT PAY SYSTEM APPLIES UNIFORMLY ACROSS  
20 STATE DEPARTMENTS AND INSTITUTIONS OF HIGHER EDUCATION SUBJECT  
21 TO THE PROVISIONS OF SUBPARAGRAPH (I.9) OF THIS PARAGRAPH (c). FOR  
22 EACH STATE FISCAL YEAR THE STATE PERSONNEL DIRECTOR SHALL  
23 DETERMINE THE APPROPRIATE MERIT PAY RATES THAT APPLY TO ALL  
24 STATE DEPARTMENTS AND INSTITUTIONS AND THE PRIORITY GROUP OR  
25 GROUPS THAT RECEIVE MERIT PAY.

26 (B) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
27 CONTRARY, AN INSTITUTION OF HIGHER EDUCATION MAY ENACT ITS OWN

1 MERIT PAY SYSTEM, SO LONG AS THE SYSTEM IS CONSISTENT WITH THE  
2 PROVISIONS OF THIS SUBSECTION (1).

3 (I.7) AN EMPLOYEE WHO IS AT OR ABOVE THE MAXIMUM AMOUNT  
4 FOR HIS OR HER SALARY RANGE IS NOT ELIGIBLE FOR A MERIT PAY SALARY  
5 INCREASE, BUT IS ELIGIBLE FOR A MERIT PAY PAYMENT THAT IS NONBASE  
6 BUILDING.

7 (I.9) MERIT PAY IS SUBJECT TO AVAILABLE APPROPRIATIONS.  
8 EXCEPT AS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (j) OF THIS  
9 SUBSECTION (1), THE GENERAL ASSEMBLY SHALL APPROPRIATE ANY  
10 MONEYS FOR MERIT PAY IN THE PERSONAL SERVICES LINE ITEM IN THE  
11 ANNUAL GENERAL APPROPRIATION ACT.

12 (II) IN ADDITION TO ANY OTHER REQUIREMENTS SET FORTH IN THIS  
13 PARAGRAPH (c), the department of personnel shall develop ~~guidelines and~~  
14 ~~coordinate a performance~~ THE MERIT PAY system pursuant to the  
15 ~~provisions of subparagraph (f) of this paragraph (c)~~ SO that IT:

16 (D) Emphasizes planning, management, and evaluation of  
17 employee performance; AND

18 (E) ~~Includes uniform and consistent guidelines for all state~~  
19 ~~departments and institutions of higher education;~~

20 (F) Prohibits a forced distribution of performance ratings. ~~and~~

21 (G) ~~Authorizes individual and group performance awards.~~

22 (IV) ~~The state personnel director may authorize state departments~~  
23 ~~and institutions of higher education to establish a program for the~~  
24 ~~particular state department or institution~~ EACH STATE DEPARTMENT AND  
25 INSTITUTION OF HIGHER EDUCATION SHALL ENSURE THAT IT HAS A  
26 PERFORMANCE REVIEW SYSTEM THAT CAN BE USED to implement the  
27 performance A MERIT PAY system. ~~prepared by the department of~~

1 ~~personnel in accordance with the provisions of this paragraph (c).~~ The  
2 state personnel director shall encourage state departments and institutions  
3 of higher education to implement performance evaluations of employees  
4 that are as objective as possible and that, as soon as possible and  
5 wherever feasible, include an assessment from multiple sources of each  
6 employee's performance. Such sources shall include, where applicable,  
7 the employee's self-assessment; the employee's superiors, subordinates,  
8 AND peers; and any other applicable sources of an employee's  
9 performance. The state personnel director shall adopt procedures to  
10 establish a process to resolve employee disputes related to performance  
11 evaluations that do not result in corrective or disciplinary action against  
12 the employee. Each program established by a state department or  
13 institution of higher education pursuant to this subparagraph (IV) shall be  
14 subject to the director's approval. ~~Except as provided in paragraph (d) of~~  
15 ~~subsection (5) of this section, salaries may be increased or left unchanged~~  
16 ~~subject to available appropriations for the performance system; except~~  
17 ~~that no annual increase shall be guaranteed.~~

18 (c.5) (V) The state personnel director shall monitor compliance  
19 with the requirements of this paragraph (c.5) and paragraph (c) of this  
20 subsection (1) and shall annually report the director's findings pertaining  
21 to the prior fiscal year no later than January 1 of the following fiscal year  
22 to the joint budget committee of the general assembly. The report shall  
23 include, by department or institution, the number of supervisors who were  
24 suspended or demoted, the percentage of all supervisors who complied  
25 with the requirements of this paragraph (c.5), ~~the total amount of dollars~~  
26 ~~appropriated for performance awards,~~ the total amount of such dollars  
27 that were awarded to employees for ~~performance awards,~~ and MERIT PAY,

1 the total amount of those dollars awarded for each PRIORITY GROUP AND  
2 EACH SALARY RANGE AND performance category, ANY REVERSION  
3 AMOUNTS THAT WERE TRANSFERRED FOR THE PRIOR STATE FISCAL YEAR  
4 PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (IV) OF  
5 PARAGRAPH (j) OF THIS SUBSECTION (1), THE LINE ITEM APPROPRIATION  
6 RELATED TO EACH REVERSION AMOUNT, AND THE BALANCE IN THE  
7 DEPARTMENT'S ACCOUNT WITHIN THE STATE EMPLOYEE RESERVE FUND AS  
8 OF THE DATE OF THE REPORT.

9 (c.7) In addition to the periodic salary increases authorized by  
10 paragraph (c) of this subsection (1), the performance REVIEW COMPONENT  
11 OF THE MERIT PAY system established pursuant to subparagraph ~~(H)~~ or  
12 (IV) of paragraph (c) of this subsection (1) shall be used for the purpose  
13 of determining eligibility for a performance-based ~~bonus~~ AWARD  
14 permitted pursuant to section 24-38-103 (1.5). The ~~bonus~~ AWARD shall be  
15 in addition to any other compensation authorized by law, and it shall not  
16 affect the compensation that the employee is entitled to receive in  
17 subsequent years.

18 (j) (I) AS USED IN THIS PARAGRAPH (j), UNLESS THE CONTEXT  
19 OTHERWISE REQUIRES:

20 (A) "ELIGIBLE DEPARTMENT" MEANS A DEPARTMENT THAT  
21 RECEIVED AN APPROPRIATION FOR WHICH THERE IS A REVERSION AMOUNT.

22 (B) "FUND" MEANS THE STATE EMPLOYEE RESERVE FUND CREATED  
23 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (j).

24 (C) "PERSONAL SERVICES-RELATED LINE ITEM" MEANS THE  
25 FOLLOWING LINE ITEMS: PERSONAL SERVICES; GROUP HEALTH, LIFE, AND  
26 DENTAL INSURANCE; SHORT-TERM DISABILITY INSURANCE; AMORTIZATION  
27 EQUALIZATION DISBURSEMENTS; SUPPLEMENTAL AMORTIZATION

1 EQUALIZATION DISBURSEMENTS; AND SHIFT DIFFERENTIAL.

2 (D) "QUALIFYING FUND" MEANS A FUND IN WHICH THERE IS A  
3 REVERSION AMOUNT.

4 (E) "REVERSION AMOUNT" MEANS THE FINAL, ADJUSTED AMOUNT  
5 OF MONEYS APPROPRIATED FOR A STATE FISCAL YEAR IN A PERSONAL  
6 SERVICES-RELATED LINE ITEM OR OPERATING LINE ITEM OF THE ANNUAL  
7 GENERAL APPROPRIATION ACT TO A DEPARTMENT THAT IS UNEXPENDED  
8 AND UNENCUMBERED AS OF THE DATE THE STATE CONTROLLER PUBLISHES  
9 THE COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE STATE FOR THE  
10 STATE FISCAL YEAR. THERE IS NO "REVERSION AMOUNT" RELATED TO ANY  
11 LINE ITEM THAT MONEYS ARE TRANSFERRED FROM OR TO PURSUANT TO  
12 SECTION 24-75-108.

13 (II) THE STATE EMPLOYEE RESERVE FUND IS HEREBY CREATED IN  
14 THE STATE TREASURY. WITHIN THE FUND THERE IS AN ACCOUNT  
15 DEDICATED TO EACH PRINCIPAL DEPARTMENT. A DEPARTMENT'S ACCOUNT  
16 CONSISTS OF MONEYS TRANSFERRED BY THE STATE TREASURER PURSUANT  
17 TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH (j) AND ANY TRANSFERS  
18 DIRECTED BY THE GOVERNOR PURSUANT TO SUBPARAGRAPH (VI) OF THIS  
19 PARAGRAPH (j). MONEYS WITHIN A DEPARTMENT'S ACCOUNT ARE  
20 CONTINUOUSLY APPROPRIATED TO SUCH DEPARTMENT FOR THE PURPOSE  
21 OF PROVIDING MERIT PAY TO CERTIFIED EMPLOYEES AS PROVIDED IN THIS  
22 SUBSECTION (1). A DEPARTMENT MAY NOT EXPEND ANY MONEYS FROM ITS  
23 ACCOUNT WITHOUT THE APPROVAL OF THE DIRECTOR OF THE OFFICE OF  
24 STATE PLANNING AND BUDGETING.

25 (III) ANY MONEYS IN THE FUND NOT EXPENDED AS PROVIDED IN  
26 SUBPARAGRAPH (II) OF THIS PARAGRAPH (j) MAY BE INVESTED BY THE  
27 STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME

1 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN A  
2 DEPARTMENT'S ACCOUNT SHALL BE CREDITED TO THE SAME ACCOUNT.  
3 ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND  
4 AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT  
5 BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

6 (IV) ON THE DATE THE STATE CONTROLLER PUBLISHES THE  
7 COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE STATE, THE STATE  
8 CONTROLLER AND STATE TREASURER SHALL TRANSFER AN AMOUNT OF  
9 MONEYS EQUAL TO A REVERSION AMOUNT FROM A QUALIFYING FUND TO  
10 THE STATE EMPLOYEE RESERVE FUND TO BE ALLOCATED TO THE ELIGIBLE  
11 DEPARTMENT'S ACCOUNT.

12 (V) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
13 CONTRARY, THE STATE TREASURER SHALL NOT TRANSFER ANY MONEYS  
14 FROM A QUALIFYING FUND IF:

15 (A) THE TRANSFER WOULD VIOLATE THE STATE CONSTITUTION;

16 (B) THE TRANSFER IS STATUTORILY PROHIBITED;

17 (C) THE REVERSION IS REQUIRED PURSUANT TO SECTION  
18 24-37.5-112 (2); OR

19 (D) THERE ARE INSUFFICIENT MONEYS IN THE FUND FOR THE FULL  
20 TRANSFER. IN SUCH CASE, THE STATE TREASURER SHALL TRANSFER AS  
21 MUCH AS IS AVAILABLE.

22 (VI) THE GOVERNOR MAY DIRECT THE STATE TREASURER TO  
23 REALLOCATE MONEYS AMONG DEPARTMENT ACCOUNTS IN THE FUND;  
24 EXCEPT THAT THE TOTAL AMOUNT REALLOCATED PURSUANT TO THIS  
25 SUBPARAGRAPH (VI) DURING A STATE FISCAL YEAR SHALL NOT EXCEED  
26 TWO MILLION DOLLARS. NO OTHER REALLOCATION OF MONEYS AMONG  
27 ACCOUNTS IS PERMITTED.



1           (4) **Annual compensation process.** (a) The purpose of the annual  
2 compensation process is to determine any necessary adjustments to state  
3 employee salaries, state contributions for group benefit plans, and  
4 ~~performance awards~~ MERIT PAY. The annual compensation survey, based  
5 on an analysis of surveys by public or private organizations, including  
6 surveys by the state personnel director, shall include a fair sample of  
7 public and private sector employers and jobs, including areas outside the  
8 Denver metropolitan area. In order to establish confidence in the selection  
9 of surveys, the state personnel director shall meet and confer in good faith  
10 with management and state employee representatives.

11           (b) (I) The state personnel director shall prepare an annual  
12 compensation report based on the analysis of surveys conducted pursuant  
13 to paragraph (a) of this subsection (4). The purpose of the annual  
14 compensation report shall be to reflect all adjustments necessary to  
15 maintain the salary structure, state contributions for group benefit plans,  
16 and ~~performance awards~~ MERIT PAY for the upcoming fiscal year. FOR  
17 THE MERIT PAY COMPONENT, THE STATE PERSONNEL DIRECTOR SHALL  
18 INCLUDE A DESCRIPTION OF THE AMOUNT NECESSARY FOR MERIT PAY FOR  
19 ALL ELIGIBLE STATE EMPLOYEES, AS WELL AS THE AMOUNT NECESSARY  
20 FOR EACH PRIORITY GROUP OF STATE EMPLOYEES. THE STATE PERSONNEL  
21 DIRECTOR SHALL ALSO INCLUDE A DETAILED ANALYSIS OF SALARY RANGES  
22 FOR ALL EMPLOYEES IN THE STATE PERSONNEL SYSTEM AND HOW  
23 EMPLOYEES' SALARIES ARE DISTRIBUTED WITHIN THESE RANGES. The state  
24 auditor is responsible for contracting with a private firm to conduct a  
25 performance audit of the procedures and application of data, including  
26 any survey conducted by the state personnel director. ~~Beginning January~~  
27 ~~1, 2003, such audits shall be conducted every two years, and Beginning~~

1 January 1, 2005, the audits shall be conducted every four years. A report  
2 shall be submitted to the governor and the general assembly by the June  
3 30 immediately following the completion of the audit.

4 (c) By August 1, 2003, and by August 1 of each year thereafter,  
5 the state personnel director shall submit the annual compensation report  
6 and recommendations and estimated costs for state employee  
7 compensation for the next fiscal year, covering salaries, state  
8 contributions for group benefit plans, and ~~performance awards~~ MERIT  
9 PAY, to the governor and the joint budget committee of the general  
10 assembly. The recommendations shall reflect a consideration of the  
11 results of the annual compensation survey, fiscal constraints, the ability  
12 to recruit and retain state employees, appropriate adjustments with respect  
13 to state employee compensation, and those costs resulting from  
14 implementation of section 24-50-110 (1) (a). The recommendations for  
15 state contributions for group benefit plans shall specify the annual group  
16 benefit plan year established pursuant to section 24-50-604 (1) (m). The  
17 annual compensation report shall include the results of the surveys of  
18 public or private employers and jobs for prevailing total compensation  
19 and the reasons for any deviation from prevailing total compensation in  
20 the recommendations submitted to the governor and the joint budget  
21 committee. The state personnel director shall also publish such report.  
22 THIS PARAGRAPH (c) IS EXEMPT FROM THE PROVISIONS OF SECTION  
23 24-1-136 (11), AND THE PERIODIC REPORTING REQUIREMENTS OF THIS  
24 SECTION ARE EFFECTIVE UNTIL CHANGED BY THE GENERAL ASSEMBLY  
25 ACTING BY BILL.

26 **SECTION 7.** In Colorado Revised Statutes, 24-50-109.5, **amend**  
27 (2) as follows:

1           **24-50-109.5. Fiscal emergencies - emergency orders.** (2) With  
2 the advice and assistance of the state personnel director, the governor  
3 shall take such actions as necessary to be utilized by each principal  
4 department and each institution of higher education to reduce state  
5 personnel expenditures in the event of a fiscal emergency. Such actions  
6 shall include, but need not be limited to, separations, voluntary furloughs,  
7 mandatory furloughs, suspension of increases in salary and state  
8 contributions for group benefit plans, suspension of ~~performance awards~~  
9 MERIT PAY, job-sharing, hiring freezes, forced reallocation of vacant  
10 positions, or a combination thereof. Any suspension of salary increases  
11 OR increases in state contributions for group benefit plans or ~~performance~~  
12 ~~awards~~ shall apply statewide to all employees in the state personnel  
13 system. If mandatory furloughs are utilized in any principal department  
14 or institution of higher education, such furloughs shall be implemented  
15 by each appointing authority so that all employees under such authority,  
16 regardless of status, position, or level of employment, are furloughed for  
17 the same length of time, consistent with section 24-2-103 (2). Employees  
18 of the following agencies and employees with duties as described shall  
19 not be subject to mandatory furlough: The Colorado state patrol,  
20 correctional officers, police officers, employees of the department of  
21 human services providing hands-on care, and employees providing  
22 hands-on nursing care.

23           **SECTION 8.** In Colorado Revised Statutes, 24-50-110, **amend**  
24 (1) (b) as follows:

25           **24-50-110. Budget control - personal services.** (1) In order to  
26 provide controls and proper identification of personal services costs  
27 necessary to carry out the policy of the state regarding compensation of

1 state employees, the following administrative and fiscal procedures shall  
2 apply:

3 (b) In their annual budget requests, the heads of all principal  
4 departments of state government shall set forth separately the projected  
5 costs of personal services arising from anticipated classification reviews,  
6 promotions, and other increases in compensation or bonuses for  
7 employees in their departments. THE COSTS OF PERSONAL SERVICES SHALL  
8 INCLUDE ANY MERIT PAY.

9 **SECTION 9.** In Colorado Revised Statutes, 24-50-112.5, **amend**  
10 (1), (2) (b), (3) (a), and (4) (a) as follows:

11 **24-50-112.5. Selection system.** (1) (a) The state personnel  
12 director shall establish procedures and directives necessary to implement  
13 a merit-based statewide selection system to be used uniformly by all  
14 principal departments. Such procedures and directives shall include, but  
15 are not limited to, procedures for acceptance of applications, job  
16 qualification standards for candidates, extension of eligible lists,  
17 CONSISTENT EVALUATION AND EXAMINATION PROCEDURES FOR  
18 EQUIVALENT JOB CLASSIFICATIONS, and ~~examination~~ development and  
19 administration standards FOR THE COMPARATIVE ANALYSIS PROCESS.

20 (b) Appointments and promotions to positions shall be based on  
21 ~~job-related knowledge, skills, abilities, competencies, behaviors, and~~  
22 ~~quality of performance as demonstrated by~~ A fair and open ~~competitive~~  
23 ~~examinations~~ COMPARATIVE ANALYSIS OF CANDIDATES BASED ON  
24 OBJECTIVE CRITERIA. Selections shall be made without regard to race,  
25 color, creed, religion, national origin, ancestry, age, sexual orientation,  
26 marital status, or political affiliation and without regard to sex or  
27 disability except as otherwise provided by law.

1           (2) **Employment lists.** (b) Candidates ~~receiving a final passing~~  
2 ~~score at the completion of the examination process~~ shall be placed on an  
3 eligible list and ranked BASED ON THE COMPARATIVE ANALYSIS. Qualified  
4 candidates shall receive veterans' preference as prescribed by section 15  
5 of article XII of the state constitution. The person to be appointed to any  
6 position under the state personnel system shall be one of the ~~three~~ SIX  
7 persons ranking highest on the eligible list or such lesser number as  
8 qualify. ~~The duration of an eligible list shall be six months but may be~~  
9 ~~extended by the state personnel director.~~

10           (3) **Comparative analysis of candidates.** (a) ~~Examinations~~ EACH  
11 APPOINTING AUTHORITY shall ~~be based on~~ DEVELOP THE COMPARATIVE  
12 ANALYSIS OF CANDIDATES BASED ON OBJECTIVE CRITERIA TO BE USED BY  
13 THE APPOINTING AUTHORITY. A COMPARATIVE ANALYSIS MUST BE A  
14 PROFESSIONALLY ACCEPTED STANDARD THAT COMPARES specific  
15 job-related knowledge, skills, abilities, behaviors, and other  
16 competencies. ~~Examinations shall be conducted as needed.~~ A  
17 COMPARATIVE ANALYSIS MAY INCLUDE, BUT IS NOT LIMITED TO, A  
18 WRITTEN EXAMINATION, ORAL BOARD, OR SEARCH COMMITTEE. Only  
19 qualified applicants shall be included in ~~the examination~~ A COMPARATIVE  
20 ANALYSIS process. Applicants shall not be rejected solely because they do  
21 not have the education required, except where education is a prerequisite  
22 for a profession or is required by law. Where education is not a  
23 prerequisite or is not required by law, an applicant's experience shall be  
24 considered.

25           (4) **Appeals.** (a) Any person directly affected by the selection and  
26 ~~examination~~ COMPARATIVE ANALYSIS process action may file a written  
27 appeal with the state personnel director. The appeal must be filed within

1 ten days after the administration of the ~~examination~~ COMPARATIVE  
2 ANALYSIS. The director or a designee of the director shall review the  
3 appeal in summary fashion on the basis of written material submitted in  
4 connection with such appeal, which may be supplemented by oral  
5 argument at the discretion of the director or designee.

6 **SECTION 10.** In Colorado Revised Statutes, 24-50-114, **amend**  
7 (1) and (2) as follows:

8 **24-50-114. Temporary appointments - term - tenure.**

9 (1) Pending the availability of an eligible list determined by the state  
10 personnel director to be appropriate for a class, the appointing authority,  
11 with the prior approval of the state personnel director, may fill a vacancy  
12 for a permanent position by temporary appointment of a qualified,  
13 certified employee in accordance with the promotional policy established  
14 by the board. In the absence of such an eligible employee, temporary  
15 appointments of qualified persons may be made from without the state  
16 personnel system. ~~Such temporary appointments~~ A TEMPORARY  
17 APPOINTMENT shall not exceed ~~six~~ NINE months in length, except for  
18 personal services contracts as permitted by part 5 of this article. AN  
19 APPOINTING AUTHORITY MUST WAIT AT LEAST FOUR MONTHS BETWEEN  
20 TEMPORARY APPOINTMENTS FOR THE SAME POSITION THAT ARE MADE  
21 PURSUANT TO THIS SUBSECTION (1). If the vacancy is for a permanent  
22 position, an eligible list shall be established within the ~~six-month~~  
23 NINE-MONTH period following the TEMPORARY appointment.

24 (2) The state personnel director may, by rule, authorize principal  
25 department heads and presidents of colleges and universities to employ  
26 persons from outside the state personnel system on a temporary basis  
27 while an eligible list is being provided or in emergency or seasonable

1 situations nonpermanent in nature, but in each case the period of  
2 employment shall not exceed ~~six~~ NINE months, except for personal  
3 services contracts as permitted by part 5 of this article.

4 **SECTION 11.** In Colorado Revised Statutes, **amend** 24-50-124  
5 as follows:

6 **24-50-124. Reduction of employees - definition.** (1) (a) When  
7 certified employees WHO, AS OF JANUARY 1, 2013, ARE WITHIN FIVE  
8 YEARS FROM BEING ELIGIBLE FOR FULL RETIREMENT PURSUANT TO  
9 SECTION 24-51-602 (1) (a) are separated from state service, ~~due to lack of~~  
10 ~~work, lack of funds, or reorganization,~~ they shall be separated or demoted  
11 according to procedures established by rule. Such ~~procedure~~ PROCEDURES  
12 shall require that consideration be given to performance evaluations of  
13 the employees and seniority within the total state service. Such employees  
14 shall have retention rights throughout the principal department in which  
15 they are employed unless the head of the department requests, and the  
16 board approves, in advance, limitation of retention rights to major  
17 divisions, institutions, or colleges within the principal department.

18 (b) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH BY RULE  
19 PROCEDURES FOR THE SEPARATION OR DEMOTION OF ANY CERTIFIED  
20 EMPLOYEES NOT COVERED BY PARAGRAPH (a) OF THIS SUBSECTION (1)  
21 FROM STATE SERVICE DUE TO LACK OF WORK, LACK OF FUNDS, OR  
22 REORGANIZATION. SUCH PROCEDURES SHALL REQUIRE THAT  
23 CONSIDERATION BE GIVEN TO PERFORMANCE EVALUATIONS OF AN  
24 EMPLOYEE AND SENIORITY WITHIN THE TOTAL STATE SERVICE.

25 (c) THE APPOINTING AUTHORITIES FROM ALL DEPARTMENTS SHALL  
26 CONSIDER PLACING A CERTIFIED EMPLOYEE WHO HAS BEEN IDENTIFIED  
27 PURSUANT TO THE PROCEDURES ESTABLISHED PURSUANT TO PARAGRAPH

1 (b) OF THIS SUBSECTION (1) AS A PERSON TO BE SEPARATED FROM STATE  
2 SERVICE INTO A FUNDED, VACANT POSITION FOR WHICH THE EMPLOYEE IS  
3 QUALIFIED. THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH BY RULE  
4 PROCEDURES FOR SUCH PLACEMENTS.

5 (d) (I) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH BY  
6 RULE A LAYOFF PLAN THAT MAY BE USED BY A DEPARTMENT TO PROVIDE  
7 POSTEMPLOYMENT COMPENSATION OR OTHER BENEFITS FOR CERTIFIED  
8 EMPLOYEES SEPARATED FROM STATE SERVICE. THE PLAN MAY INCLUDE,  
9 BUT IS NOT LIMITED TO, A HIRING PREFERENCE, PAYMENT TOWARDS THE  
10 CONTINUATION OF HEALTH BENEFITS FOR A SPECIFIED TIME AFTER  
11 SEPARATION, TUITION OR EDUCATIONAL TRAINING VOUCHERS, SEVERANCE  
12 PAY, OR PLACEMENT ON A DEPARTMENTAL REEMPLOYMENT LIST.

13 (II) THE POSTEMPLOYMENT COMPENSATION OR OTHER BENEFITS  
14 MAY BE OFFERED THROUGH A SEPARATION AGREEMENT.

15 (III) IN NO CASE SHALL THE TOTAL VALUE OF THE  
16 POSTEMPLOYMENT COMPENSATION AND OTHER BENEFITS AUTHORIZED  
17 PURSUANT TO THIS PARAGRAPH (d) EXCEED AN AMOUNT EQUAL TO ONE  
18 WEEK OF AN EMPLOYEE'S SALARY FOR EVERY YEAR OF HIS OR HER  
19 SERVICE, UP TO A MAXIMUM OF EIGHTEEN WEEKS OF THE EMPLOYEE'S  
20 SALARY.

21 (IV) A CERTIFIED EMPLOYEE IS NOT ENTITLED TO RECEIVE ANY  
22 POSTEMPLOYMENT COMPENSATION OR OTHER BENEFITS PURSUANT TO THIS  
23 PARAGRAPH (d).

24 (2) A certified employee who is separated FROM STATE SERVICE  
25 shall be placed on a departmental reemployment list for a period of not  
26 less than one year, UNLESS THE EMPLOYEE WAIVES THE RIGHT TO BE SO  
27 PLACED AS PART OF A SEPARATION AGREEMENT.



1 (3) AS USED IN THIS SECTION, "SEPARATED FROM STATE SERVICE"  
2 MEANS SEPARATED FROM STATE SERVICE DUE TO LACK OF WORK, LACK OF  
3 FUNDS, OR REORGANIZATION.

4 **SECTION 12.** In Colorado Revised Statutes, 24-50-135, **add** (4)  
5 as follows:

6 **24-50-135. Exemptions from personnel system.** (4) THE STATE  
7 PERSONNEL DIRECTOR SHALL ESTABLISH PROCEDURES TO APPROVE THE  
8 EXEMPTION OF AN EMPLOYEE FROM THE STATE PERSONNEL SYSTEM  
9 PURSUANT TO SECTION 13 (2) (a) (XI) AND (2) (a) (XII) OF ARTICLE XII OF  
10 THE STATE CONSTITUTION.

11 **SECTION 13.** In Colorado Revised Statutes, 24-75-112, **amend**  
12 (1) (b) as follows:

13 **24-75-112. Annual general appropriation act - headnote**  
14 **definitions - general provisions - footnotes.** (1) As used in the annual  
15 general appropriation act, the following definitions and general provisions  
16 shall apply for the headnote terms preceding and specifying the purpose  
17 of certain line items of appropriation:

18 (b) "Centralized appropriation" means the appropriation of funds  
19 to an executive director of a department or a central administrative  
20 program intended for subsequent allocation and expenditure at and among  
21 a department's divisions, programs, agencies, or long bill groups in order  
22 to reflect the amount of such resources actually used in each program or  
23 division. Such centralized appropriations may include salary survey,  
24 ~~performance-based~~ MERIT pay or anniversary increases, senior executive  
25 service, shift differential, group health and life insurance, capital outlay,  
26 ADP capital outlay, information technology asset maintenance, legal  
27 services, purchase of services from computer center, multiuse network

1 payments, vehicle lease payments, leased space, lease purchase, payment  
2 to risk management and property funds, short-term disability insurance,  
3 utilities, communications services payments, amortization equalization  
4 disbursements, supplemental amortization equalization disbursements,  
5 administrative law judge services, and centralized ADP. As provided in  
6 paragraph (1) of this subsection (1), capital outlay is included within the  
7 appropriation for "operating expenses".

8 **SECTION 14. Act subject to petition - effective date -**  
9 **contingent on House Concurrent Resolution 12-\_\_\_\_.** (1) Except as set  
10 forth in subsection (2) of this section, this act takes effect September 1,  
11 2012; except that, if a referendum petition is filed pursuant to section 1  
12 (3) of article V of the state constitution against this act or an item, section,  
13 or part of this act subject to the provisions of this subsection (1) within  
14 the ninety-day period after final adjournment of the general assembly,  
15 then the item, section, or part subject to the provisions of this subsection  
16 (1) will not take effect unless approved by the people at the general  
17 election to be held in November 2012 and, in such case, will take effect  
18 on the date of the official declaration of the vote thereon by the governor.

19 (2) Sections 5, 9, 10, and 12 of this act take effect only if House  
20 Concurrent Resolution 12-\_\_\_\_ is approved by the people at the next  
21 general election and becomes law, and, in such case, such sections of this  
22 act take effect on the date of the official declaration of the vote thereon  
23 by the governor; except that, if a referendum petition is filed pursuant to  
24 section 1 (3) of article V of the state constitution against section 5, 9, 10,  
25 or 12 of this act within such period, then such section or any item, section,  
26 or part thereof will not take effect unless approved by the people at the  
27 general election to be held in November 2012.